

REMARKS

The Office Action mailed on March 31, 2008, has been carefully considered. The following remarks are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 1-26 are currently pending in the instant application. Claims 8-9 and 11 without prejudice. Applicants reserve the right to prosecute claims 8-9 and 11 at a later time. New claims 27-31 have been added for consideration by the Examiner. No new matter is introduced by new claims 27-31.

Claim 9 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants traverse the rejection; however, in order to advance the present application have cancelled claim 9, rendering the rejection moot.

Claims 1-8, 10-12, 16, and 18-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 4,253,199 (“Banko”). Claims 9, 13-15, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Banko in view of USPN 4,731,078 (“Stoy”). Applicants respectfully traverse these rejections for the reasons discussed below.

Claims 1-8, 10-12, 16, and 18-26 Are Not Anticipated by Banko.

Banko teaches a capsule implant which has deformable and/or elastic properties. Banko, column 2, lines 35-37. Banko further teaches a lip outside of the active area of the capsule, the lip being provided for attachment with a plurality of sutures. Banko, column 2, lines 59-61.

By contrast, independent claim 1, as amended, is directed to an implantable intraocular lens comprising, in pertinent part, a positioning member comprising a main body including anterior and posterior segments, the segments formed of a resilient material and forming an opening disposed about an optical axis. Banko fails teach a plurality of segments formed of a resilient material and forming an opening disposed about an optical axis. Independent claim 16 contains similar limitations to those recited in independent claim 1, and is patentable over Banko for reasons similar to those for which claim 1 is patentable thereover, and is patentable in its own right as well.

Independent claim 20, as amended, is directed to an implantable intraocular lens comprising, in pertinent part, a positioning member comprising a plurality of circumferentially spaced-apart, haptic arms and a plurality of circumferentially spaced-apart, arcuate in cross-section, positioning legs, at least some of said arms being joined with at least some of said legs at a bight, the legs being

joined with the optic via the haptic arms. Banko does not teach at least some of a plurality of arms being joined with at least some of a plurality of legs at a bight, as recited in claim 20. Nor does Banko teach the legs being joined with the optic via the haptic arms.

The Examiner has asserted, as best can be understood from the current office action, that Banko discloses a plurality of spaced-apart arm that radially extend in a straight line and connected to legs at a bight. However, the Examiner has failed to specify, apart from a general reference to Figure 7 of Banko, what elements of Banko would correspond to either the “legs” or the “bight” recited in claim 20. If the Examiner persists in rejecting claim 20 over Banko, Applicants request the Examiner clarify the rejection by indication what elements of Banko would correspond to the “legs” or the “bight” as recited in claim 20.

The undersigned attempted to set up an interview to discuss and clarify at least these points of the pending rejection, but was informed by Supervisor McDermott that the Examiner who prepared the current office action was no longer with the Office and that the Supervisor could not conduct a meaningful interview regarding the merits of the current rejection. Claim 20 has been amended to more clearly point out the distinctions over Banko, without changing the scope of the previous, unamended version of claim 20. Given these circumstances, the undersigned request that if a rejection of claim 20 is maintained, that the rejection not be made final, since the Office was unable to provide clarification regarding how Banko anticipates claim 20 or any of other pending claims.

In addition to independent claims 1, 16, and 20, several of the claims depending from claims 1, 16, and 20 further distinguish over Banko. For example, Banko does not teach a plurality of legs, or anterior and posterior segments, defining an outer surface of a positioning member, said outer surface having an equator, said surface extending radially inward from said equator along a plane passing through said optical axis, as recited in new claims 27 and 30. Also, Banko does not teach legs or segments that join to form an equatorial portion having a size and shape to substantially conform with an inner surface of an equatorial portion of the capsule of a human eye, as recited in new claims 28 and 31. Furthermore, Banko does not teach at least one of a plurality of anterior segments and a plurality of posterior segments being joined by an annular portion, wherein said annular portion is located anterior to said optic or posterior to said optic, as recited in new claim 29.

At least because Banko does not teach all of the limitations of claims 1, 16, or 20, Applicants request the Examiner allow claims 1, 16, and 20. Claims 2-8, 10-12, 18-19, and 21-26

depend from claims 1, 16, or 20 and further define the invention of claims 1, 16, and 20. Thus, claims 2-8, 10-12, 18-19, and 21-26 are patentable over Banko at least for the same reasons that claim 1, 16, and 20 is patentable thereover, and are patentable in their own right as well.

Claims 9, 13-15, and 17 Are Patentable Over Banko and Stoy.

The teachings of Banko are discussed above. Stoy teaches an artificial intraocular lens features an optical body for refracting images onto the retina and an outer surface that encloses the optical body, is exposed to fluid within the eye, and has a refractive index no greater than 1.40. In another aspect, the optical body includes an internal refractive surface whose contour can be selectively changed to change its refractive power. Stoy, Abstract.

Claims 9, 13-15, and 17 depend from claims 1 or 16 and incorporate the limitations thereof. Hence, claims 9, 13-15, and 17 are patentable over Banko at least for the same reasons that claims 1 and 16 are patentable thereover, and are patentable in their own right as well. Stoy does nothing to cure the deficiencies of Banko. Accordingly, claims 9, 13-15, and 17 are patentable over Banko and Stoy, either alone or in combination. Accordingly, at least because Banko and Stoy, either alone or in combination, do not teach all of the limitations of claims 9, 13-15, and 17, Applicants request the Examiner allow claims 1, 16, and 20.

CONCLUSION

Applicant respectfully asserts that the claims now pending are allowable over the prior art. Therefore, Applicant earnestly seeks a notice of allowance and prompt issuance of this application.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 502317.

Respectfully submitted,

Advanced Medical Optics

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By:



David Weber

Registration No. 51,149

Agent of Record

Customer No. 33357

(714) 247-8232